

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION

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7.010. Administration of the ordinance. Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

7.020. The enforcement officer. The provisions of the ordinance shall be administered and enforced by the Town Building Inspector. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all building permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable all Temporary Use Permits and make and maintain records thereof.

- D. Maintain and keep current zoning maps and records of amendments thereto.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

7.030. Building permits. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, to use a building or structure or to change the use of a building or structure, or to commence the filling or site grading of land without a permit therefore, issued by the Building Inspector. If said excavation or construction is begun without a proper building permit the building permit fee shall be double or twice the original cost of the permit if legal compliance had been obtained as is required.

No Building Permit shall be issued by the Building Inspector except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided by this ordinance.

A. Application

Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following:

1. The actual shape, location, and dimensions of the lot to be built upon.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
3. The existing and intended use of all such buildings or other structures.

4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

B. Fee:

The Pegram Board of Mayor and Aldermen shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the Office of the Building Inspector and City Hall. Only the Board of Mayor and Aldermen may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

C. Issuance of Permit:

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed a waiving of any provisions of this ordinance.

D. Construction Progress:

Any Building Permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance. No building permit shall be valid for more than one (1) year, this including all permit extensions as provided for in the Standard Building Code. New building permits must be issued at least every twelve (12) months if construction is to be prolonged.

E. Bonding of Site Improvements

1. Completion of Improvements

As a condition of approval of any site plan and prior to the issuance of any Use and Occupancy Permit, an applicant shall be required to

complete all site improvements as are required by the Planning Commission or Board of Zoning Appeals acting under the authority granted to it by this ordinance.

2. Irrevocable Letter of Credit

The Planning Staff may waive the requirement that the applicant complete and/or dedicate all public improvements and landscaping prior to being issued a final Use and Occupancy Permit and allow the applicant, in the alternative, to post a irrevocable letter of credit in order to insure the construction, installation and/or dedication of all remaining required public and private improvements and landscaping. The bond shall be in the amount of one hundred ten (110) percent of the estimated cost as determined by the Planning Staff. The irrevocable letter of credit shall secure all site improvements and private access improvements required pursuant to this ordinance, including necessary off-site improvements.

3. Bonding Period

The period within which required improvements shall be completed shall be specified by the City Engineer, incorporated in the irrevocable letter of credit, and shall not exceed one (1) year from the date of approval of the Temporary Use and Occupancy Permit.

The irrevocable letter of credit shall name the Planning Commission and/or the city as obliges and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. The City Attorney may authorize another method of surety agreement that may be deemed adequate and equally enforceable. The irrevocable letter of credit shall remain in force in its full face amount until improvements are completed and accepted by the Planning Staff.

4. Release of Irrevocable Letter of Credit

The irrevocable letter of credit, and the surety securing it, may be released by the Planning Commission upon acceptance of the public improvements and the landscaping.

- (a) A request for release of the irrevocable letter of credit shall not be submitted to the Planning Commission until:
 - (i) The applicant has presented a letter to the Planning Commission requesting release of the irrevocable letter of credit, including a written statement from the engineer, surveyor, or contractor employed by the applicant stating that the improvements have been installed in accordance with the plans and specifications as approved.
 - (ii) Assurances have been obtained through either affidavits, releases or waivers of liens from all contractors and subcontractors of the filing of public disclaimers, that liens will not be filed against the dedicated land and/or improvements after they are accepted by the Planning Commission.
- (b) The approval of a site plan shall not constitute or imply the acceptance by the city of a public improvement shown on the site plan. The Planning Commission may require the site plan to be endorsed with appropriate notes to this effect.
- (c) The costs incurred in connection with a request for release of the irrevocable letter of credit (that is, engineering, inspection fees, legal fees, etc.) shall be borne by the applicant, regardless of whether his request is ultimately granted. No irrevocable letter of credit shall be released until the City Recorder certifies that all fees have been paid.

5. Failure to Complete Improvements

Where a irrevocable letter of credit has been posted, and required improvements have not been installed within the terms of the surety instrument, then the Planning Commission and/or Mayor may declare the irrevocable letter of credit to be in default and authorize the

calling of the irrevocable letter of credit and the completion of the improvements under the supervision of the appropriate city departments.

7.040. Temporary use permits. It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the City Building Inspector, as provided for in ARTICLE IV, SECTION 4.030 of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A schedule of fees shall be established by the Pegram Board of Mayor and Aldermen. Such schedule shall be posted in the office of the Building Inspector and City Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

7.050. Certificate of Occupancy. No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy of use, it shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with provisions of this ordinance, or, if such certificate is refused, to state the refusal in writing with the cause of such refusal.

7.060. Procedure for authorizing special exceptions. The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application:

An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended uses of the site, the names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Board may require.

B. Criteria for Review:

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions, and that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.
8. General compatibility with adjacent properties and other property in the district.

C. Restrictions:

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the

furtherance of the general purposes of this ordinance.

D. Validity of Plans:

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

E. Time Limit:

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

7.070. Board of Zoning Appeals. In accordance with 13-7-205 through 13-7-207 of the Tennessee Code Annotated, there shall be a Board of Zoning Appeals consisting of 5 members. The Mayor and Board of Aldermen shall specify the mode of appointments with all subsequent appointments to be for five (5) years. Vacancies of said Board shall be filled for the unexpired term of those members whose position have become vacant. All members of the Board may be removed from membership on the Board for continued

absence or just cause. Any member being so removed shall be provided, upon request, a public hearing upon the removal decision.

A. Procedure:

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

B. Appeals to the Board:

An appeal to the Pegram Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appeals was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

C. Stay of Proceedings:

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of

competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

D. Appeal to the Court:

Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

E. Powers of the Board:

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review:

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Inspector or other administrative official in the carrying out of enforcement of any provision of this ordinance.

2. Special Exceptions:

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

3. Variances:

To hear and decide applications for variances from the terms of this ordinance.

7.080. Variances. The purpose of this variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The

variances shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application:

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Fee:

A fee of twenty-five (25) dollars payable to the city of Pegram shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

C. Hearings:

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

D. Standards for Variances:

In granting a variance, the Board shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.
2. Variances shall be not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.
4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying therefore.

7.090. Amendments to the ordinance. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the Board of Mayor and Aldermen of Pegram. Any member of the Board of Mayor and Aldermen may introduce such legislation, or any official, board, or any other person may present a petition to the Board of Mayor and Aldermen requesting an amendment or

amendments to this ordinance. these amendments must be in relation to the Land Use Plan and the general welfare of the community.

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the Pegram Municipal Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within the thirty (30) days, it shall require the favorable vote of a majority of the Board of Mayor and Aldermen to become effective. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission and approved by it, or, if disapproved, receive the favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen.

Before enacting amendment to this ordinance, the Board of Mayor and Aldermen shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be published in a newspaper of general circulation in the Town of Pegram.

A. Fee:

A fee of fifty (50) dollars due and payable at the time of filing of the petition shall be posted with requests to amend the zoning ordinance. The fee is to be used by the Town of Pegram to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance.

7.100. Penalties. Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and shall be fined not less than twenty-five (25) dollars nor more than fifty (50) dollars for each offense. Each day such violations continue shall constitute a separate offense.

7.110. Remedies. In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this ordinance, the Building

Inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration,

repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

7.120. Separability. Should any section, clause, or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

7.130. Interpretation. Whenever the conditions of this ordinance require more restrictive standards than are required in or under any other statute, the requirements of this ordinance shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this ordinance, the conditions of such statute shall govern.

7.140. Effective date. This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the Pegram Municipal Planning Commission.

Date

Chairman, Pegram Planning Commission

Approved and adopted by the Board of Mayor and Aldermen of the Town of Pegram

Passed 1st Reading:	<u>3-28-86</u>
Passed 2nd Reading:	<u>4-24-86</u>
Passed 3rd Reading:	<u>5-29-86</u>

Date

Mayor, Pegram

ATTESTED:

City Recorder

legality

Approved as of form and

City Attorney